

MAS-20030912
walsh_rCommonwealth of Massachusetts
WORCESTER SUPERIOR COURT
Case Summary
Civil Docket

08:51 AM

WOCV2003-02337
Rodio v RJ Reynolds Tobacco Company

File Date	12/03/2003	Status	Disposed: transferred to other court (dtrans)	U.S. DISTRICT COURT BOSTON, MA
Status Date	01/06/2004	Session	A - Civil A (12 Worcester)	
Origin	1	Case Type	B99 - Misc tort	
Lead Case		Track	F	

Service	03/02/2004	Answer	05/01/2004	Rule 12/19/20	05/01/2004
Rule 15	05/01/2004	Discovery	09/28/2004	Rule 56	10/28/2004
Final PTC	11/27/2004	Disposition	01/26/2005	Jury Trial	Yes

PARTIES

Plaintiff	Michael Rodio Active 12/03/2003	Private Counsel 437820 Michael S Sahady 373 North Main Street Fall River, MA 02720 Phone: 508-674-9444 Fax: Active 12/03/2003 Notify
Defendant	RJ Reynolds Tobacco Company 1500 West Park Ride Drive Service pending 12/03/2003	

ENTRIES

Date	Paper	Text
12/03/2003	1.0	Complaint & civil action cover sheet filed-CJ
12/03/2003		Origin 1, Type B99, Track F.
12/03/2003		Filing fee paid in the amount of \$240.00, surcharge in \$15.00 including \$20.00 security fee.(\$275.00)
01/06/2004	2.0	Deft. R. J. Reynolds Tobacco Co. notice of removal to the US District Court of Massachusetts

EVENTS

Date	Session	Event	Result
12/06/2004	Civil A (12 Worcester)	Status: Review Annual Fee Send Notice	

A true copy by photostatic process

Attest:

Asst. Clerk

CIVIL ACTION COVER SHEET		DOCKET NO.(S)	Trial Court of Massachusetts Superior Court Department County: Worcester
		03-2337 A	
PLAINTIFF(S) MICHAEL RODIO		DEFENDANT(S) R.J. REYNOLDS TOBACCO COMPANY	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Michael S. Sahady, Esquire Sahady Associates, P.C., 373 No. Main St. Fall River, MA 02720 508 674-9444 Board of Bar Overseers number: 437820		ATTORNEY (if known)	
Origin code and track designation			
Place an x in one box only: <input checked="" type="checkbox"/> 1. F01 Original Complaint <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X) <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F) <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) <input type="checkbox"/> 6. E10 Summary Process Appeal (X)			
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)			
CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
B99	Wrongful termination and 93A action	()	(xx) Yes () No
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.			
TORT CLAIMS (Attach additional sheets as necessary)			
A.	Documented medical expenses to date:		
1.	Total hospital expenses	\$	
2.	Total Doctor expenses	\$	
3.	Total chiropractic expenses	\$	
4.	Total physical therapy expenses	\$	
5.	Total other expenses (describe)	\$	
		Subtotal \$	
B.	Documented lost wages and compensation to date		
C.	Documented property damages to date		
D.	Reasonably anticipated future medical and hospital expenses		
E.	Reasonably anticipated lost wages		
F.	Other documented items of damages (describe)		
G.	Brief description of plaintiff's injury, including nature and extent of injury (describe)		
		\$	
		\$	
		TOTAL \$	
CONTRACT CLAIMS (Attach additional sheets as necessary)			
Provide a detailed description of claim(s):			
A true copy by photostatic process Attest: <i>Maynard</i> Asst. Clerk			
TOTAL \$			
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT			
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."			
Signature of Attorney of Record		DATE: 1-22-03	

FILED
COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS. DEC - 3 2003

SUPERIOR COURT
CIVIL ACTION NO:

ATTEST:
[Signature]
D. ERK

03-2337 *[Signature]*

MICHAEL RODIO)
Plaintiff)
)
vs.)
)
R.J. REYNOLDS TOBACCO COMPANY)
Defendant)
)

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

The parties

1. The plaintiff is MICHAEL RODIO, a natural person residing at Wrentham, Norfolk County, Commonwealth of Massachusetts.
2. The defendant, R.J. REYNOLDS TOBACCO COMPANY, hereinafter referred to as R.J. REYNOLDS, is a foreign corporation doing business at 1500 West Park Drive, Westborough, Worcester County, Commonwealth of Massachusetts.

Factual Allegations

COUNT I

3. The plaintiff, MICHAEL RODIO, worked as a sales representative for R.J. REYNOLDS for twenty-six (26) years namely from October 12, 1976 to October 28, 2002, when he was wrongfully terminated.
4. The plaintiff, MICHAEL RODIO, had worked for the twenty-six years on a full-time basis and was paid about One Thousand (\$1,000.00) Dollars a week.

SAHADY ASSOCIATES, P.C.

COUNSELLORS AT LAW

399 NORTH MAIN STREET

FALL RIVER,

MASSACHUSETTS 02720

TEL. (508) 674-9444

FAX: (508) 674-8430

5. The employment of the plaintiff by the defendant, R.J. REYNOLDS, was on an at-will basis.
6. The plaintiff was wrongfully terminated on October 28, 2002 without the expiration of a reasonable period following the notice of termination contrary to the laws of the Commonwealth of Massachusetts.

WHEREFORE, the plaintiff, MICHAEL RODIO, requests that the Court ascertain plaintiff's damages and enter judgment for him in that amount.

COUNT II

7. The plaintiff realleges and reavers the allegations contained in paragraphs 1 through 6 and incorporates them herein by reference.
8. On October 28, 2002, the defendant, R.J. REYNOLDS, in violation of the covenant of good faith and fair dealing wrongfully discharged the plaintiff, MICHAEL RODIO, from its employ after twenty-six (26) years of good and faithful service to the defendant tobacco company.
9. As a result of his wrongful discharge from the employ of the defendant tobacco company, the plaintiff lost raises and bonuses, lost auto benefits, lost insurance coverage, lost retirement benefits, lost profit sharing benefits, lost social security contributions, lost stock options, lost vacation time and many other benefits to which he would have been otherwise entitled had he not been wrongfully terminated.
10. The plaintiff, MICHAEL RODIO, has suffered humiliation, mental and emotional suffering, and distress, and has suffered diminution of future earning capacity, for all of which he claims damages from the defendant, R.J. REYNOLDS.

WHEREFORE, the plaintiff, MICHAEL RODIO, requests that the Court ascertain plaintiff's damages and enter judgment for him in that amount.

COUNT III

11. The plaintiff realleges and reavers the allegations contained in paragraphs 1 through 10 and incorporates them herein by reference.
12. On October 28, 2002, MICHAEL RODIO, was wrongfully terminated from the employ of the defendant, R.J. REYNOLDS after twenty-six (26) years.
13. The plaintiff's wrongful termination was contrary to good public policy in that the defendant, R.J. REYNOLDS had prodded and urged him to pedal cigarettes below the minimum price legally set by the Commonwealth of Massachusetts.
14. The termination was contrary to public policy in that the plaintiff had been warning the company regarding the inflation of its earnings and insider trading based on these inflated stock prices.

WHEREFORE, the plaintiff, MICHAEL RODIO, requests that the Court ascertain plaintiff's damages and enter judgment for him in that amount.

COUNT IV

15. The plaintiff realleges and reavers the allegations contained in paragraphs 1 through 14 and incorporates them herein by reference.
16. By letter dated August 4, 2003, forwarded to the defendant under the provisions of Chapter 93A of the General Laws of the Commonwealth of Massachusetts, the plaintiff demanded relief from the defendant for the losses that he suffered as a result of

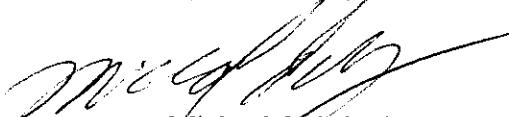
defendant's wrongful termination of him, a copy of which letter is annexed hereto and made a part hereof and marked as Exhibit 1.

17. By letter dated 8/12/03, counsel for the defendant, and on behalf of the defendant, refused to grant or offer any relief to the plaintiff, a copy of defendant's counsel letter to plaintiff's counsel is annexed hereto and made a part hereof and is marked as Exhibit 2.
18. The defendant, R.J. REYNOLDS, knew or should have known that its actions in firing the plaintiff constituted wrongful termination and relief under Chapter 93a of the General Laws should have been granted.
19. Defendant's refusal to fairly compensate the plaintiff for his damages is a willful act of unfair business practices and is made in bad faith.

WHEREFORE, the plaintiff requests that the Court determine the fair and adequate compensation due the plaintiff and award him three times that amount as per the provisions of Chapter 93A of the General Laws of the Commonwealth of Massachusetts, together with his costs and attorney's fees.

THE PLAINTIFF CLAIMS A TRIAL BY JURY ON ALL COUNTS.

By his attorney,



Michael S. Sahady
373 North Main Street
Fall River, MA 02720
508-674-9444
BBO#437820

Dated: November 19, 2003

A true copy by photostatic process
Attest: 
Asst. Clerk

SAHADY ASSOCIATES, P.C.
COUNSELLORS IN LAW
399 NORTH MAIN STREET
FALL RIVER,
MASSACHUSETTS 02720

TEL. (508) 674-9444
FAX: (508) 674-8430

SAHADY ASSOCIATES, P.C.

C o u n s e l l o r s a t L a w

Michael S. Sahady
John M. Sahady
Paul M. Sahady

399 North Main Street
Fall River, MA 02720

Tel. 508-674-9444 Fax 508-674-8430

August 4, 2003

Mr. G.R. Deschenes
Senior Manager
Sales Employment Practices
R.J. REYNOLDS
401 N. Main Street
Winston-Salem, NC 27102

Re: Michael Rodio v. R.J. Reynolds Tobacco Company
No: 03BEM01129

*DEMAND FOR RELIEF UNDER THE PROVISIONS OF
CHAPTER 93A OF THE GENERAL LAWS
OF THE COMMONWEALTH OF MASSACHUSETTS*

Dear Sir:

Please be advised that I represent Mr. Michael Rodio in his claim against R.J. Reynolds Tobacco Company and others. Please consider this letter as a demand for relief under the provisions of Chapter 93A of the General Laws of the Commonwealth of Massachusetts.

The factual basis of this claim for relief under the provisions of Chapter 93A is in part as follows:

Mr. Rodio was wrongfully terminated from employment with your company on or about October 29, 2002 after twenty-six (26) years of devoted and faithful service to this corporation. The termination of Mr. Rodio, who was an employee at will,

1. was against the covenant of good faith and fair dealing;
2. was in violation of public policy; and
3. was without reasonable notice.

You have acted in bad faith in your termination of Mr. Rodio's employment when he was on the brink of retirement with all its accrued benefits after 26 years of service to your company. You have been overreaching in your relations with Mr. Rodio in that your bad faith termination of his employment will cause the forfeiture by this employee of benefits almost earned for the very substantial services that he has rendered to your company for 26 years. You have acted in violation of the laws of the Commonwealth as enunciated by our Supreme Judicial Court in Fortune v. National Cash Register, 373 Mass. 96, 364 N.E.2d 1251, and King v. Driscoll, 424 Mass. 1; 673 N.E.2d 859. That your termination of Mr. Rodio's employment is pretextual, has already been determined to have been so by a competent department of the Commonwealth, namely the Department of Labor and Workforce Development, Division of Employment and Training in its decision dated January 31, 2003. Your abusive exercise of employer power has devastated Mr. Rodio's life emotionally, psychologically, physically, and financially. He has lost wages for lack of reasonable notice in your termination of him; he has been made to forfeit benefits almost earned by him for the substantial services he had rendered, and these benefits include lost raises and bonuses, lost auto benefits, lost insurance coverage, lost retirement benefits, lost profit sharing benefits, lost social security contributions, lost stock options, lost vacation time, and all other benefits to which he would have been otherwise entitled had he not been wrongfully terminated. He has suffered humiliation, mental and emotional suffering and distress, and has suffered diminution of future earning capacity.

All of the above damages are claimed from you also because Mr. Rodio's termination was against public policy. His termination was contrary to public policy in that you pushed and urged him to peddle your cigarettes below the minimum price legally set by the State and for his warnings regarding the inflation of the company's earnings and insider trading of its stock.

Based upon all the facts of Mr. Michael Rodio's case, your termination of him was wrongful and was an unfair and deceptive act, all in violation of Chapter 93A of the General Laws. Your deceptive act and practices outlined in this correspondence have been done willfully and in knowing violation of Mass. G.L. c. 93A which subjects you to double or triple damages. Mr. Rodio has calculated his damages to be well over \$1,000,000.00 for loss of all benefits mentioned above. Mr. Rodio, therefore, hereby demands triple damages pursuant to c. 93A of the General Laws, namely damages in the amount of \$3,000,000.00 plus interest and reasonable attorney's fees.

You should rest assured that we will pursue you to a verdict failing your adequate compensation of Mr. Michael Rodio for the losses which your unfair and deceptive acts and wrongful termination have caused him to suffer.

If within thirty (30) days of your receipt of this letter you do not agree to compensate Mr. Rodio for his mentioned losses, I shall then commence an action against you claiming triple damages.

Very truly yours,

Michael S. Sahady

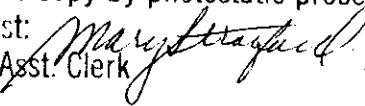
MSS/app

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

A true copy by photostatic process

Attest:

Asst. Clerk



CONSTANGY, BROOKS & SMITH, LLC
ATTORNEYS AT LAW
100 N. CHERRY STREET
SUITE 300
WINSTON-SALEM, NORTH CAROLINA 27101
TELEPHONE (336) 721-1001 • FACSIMILE (336) 748-9112
IN CHARLOTTE CALL (704) 344-1040
www.constangy.com

August 12, 2003

Michael S. Sahady
399 North Main Street
Fall River, Massachusetts 02720

RE: Michael Rodio v. R.J. Reynolds Tobacco Company

Dear Mr. Sahady:

This firm represents R.J. Reynolds Tobacco Company (the "Company") in connection with certain employment matters and I am responding to your letter of August 4 to Mr. Deschenes regarding the above captioned matter. Mr. Rodio's termination was for legitimate and lawful reasons. His termination was not in violation of Chapter 93A of the General Laws of the Commonwealth of Massachusetts or any other State or Federal law. As such your demand is rejected.

In light of my representation of the Company, please direct any further correspondence regarding Mr. Rodio to my attention.

A true copy by photostatic process
Attest: *Maupin*
Asst. Clerk

Very truly yours,

W. R. Loftis, Jr.
W. R. Loftis, Jr.

WRL,Jr./te
Enc.

ARLINGTON, VA ATLANTA, GA BIRMINGHAM, AL COLUMBIA, SC JACKSONVILLE, FL WINSTON-SALEM, NC
KANSAS CITY, MO LAKELAND, FL MACON, GA NASHVILLE, TN TAMPA, FL

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS

Worcester, SS

MICHAEL RODIO,

Plaintiff,

v.

R.J. REYNOLDS TOBACCO COMPANY

Defendant.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

Civil Action No. 03-02337-A

04cv10006 WGY

NOTICE TO STATE COURT OF REMOVAL

PLEASE TAKE NOTICE that R.J. Reynolds Tobacco Company, named as defendant in the above-styled action, has on January 5, 2004, filed a Notice of Removal, a certified copy of which is attached hereto, in the Office of the Clerk of the United States District Court for the District of Massachusetts which is incorporated herein by reference.

PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1446, the filing of said Notice of Removal in the United States District Court, together with the filing of a copy of that Notice of Removal with the Clerk of this Court, effects removal of the above-styled action to

the United States District Court, and this Court may proceed no further unless and until the case is remanded.

Respectfully submitted,

R.J. REYNOLDS TOBACCO COMPANY

By its attorneys,

Sandra E. Kahn

Mark H. Burak, BBO# 558805
Sandra E. Kahn, BBO # 564510
Morse, Barnes-Brown & Pendleton, P.C.
Reservoir Place
1601 Trapelo Road
Waltham, MA 02451
(781) 622-5930
(781) 622-5933 (facsimile)

OF COUNSEL:

W.R. Loftis, Jr., N.C. State Bar No. 2774
Kristine M. Howard, N.C. State Bar No. 26903
Candice S. Wooten, N.C. State Bar No. 28161
Constangy, Brooks & Smith, LLC
100 North Cherry Street, Suite 300
Winston-Salem, NC 27101
(336) 721-1001
(336) 748-9112 (facsimile)

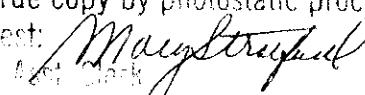
Dated: January 5, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served to all attorneys of record by first class mail this 5th day of January, 2004.

Sandra E. Kahn
Sandra E. Kahn

A true copy by photostatic process
Attest:


Mark H. Burak

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Michael Rodio

(b) County of Residence of First Listed Plaintiff Norfolk
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

2004 JAN -5 P 2:46

R.J. Reynolds Tobacco Company

U.S. DISTRICT COURT
COUNTY OF MASS.

IN U.S. PLAINTIFF CASES ONLY

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Michael S. Sahady 508-674-9444
373 North Main St., Fall River, MA 02720

Attorneys (If Known)

Mark H. Burak, Sandra E. Kahn
Morse, Barnes-Brown & Pendleton, P.C.
Reservoir Place, 1601 Trapelo Rd, Waltham, MA 02451 (781) 622-5930

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	REAL PROPERTY <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	CIVIL RIGHTS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	Labor <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			FEDERAL TAXSUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS --Third Party 26 USC 7609	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fcc Deterioration Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court

Transferred from another district
(specify) 4 Reinstated or 5 Reopened

6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Wrongful termination of employment, violation of the covenant of good faith and fair dealing termination contrary to public policy, violation of M.G.L. c.93A

VII. REQUESTED IN CHECK IF THIS IS A CLASS ACTION DEMANDS
COMPLAINT: UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) (See instructions):

IF ANY

JUDG
E

DOCKET NUMBER

DATE January 5, 2004 SIGNATURE OF ATTORNEY OF RECORD
Sandra E. Kahn

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFF

JUDGE

A true copy by *Maureen M. Murphy*
Attest: *Maureen M. Murphy*
Asst. Clerk

JS 44 Reverse (Rev. 12/96)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44**Authority For Civil Cover Sheet**

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b.) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1335 and 1338. Suits by agencies and officers of the United States, are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a) Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

A true copy by photostatic process

Attest:

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Michael Rodio v. R.J. Reynolds Tobacco Company

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

FILED
2004 JAN -5 P 2:46*Also complete AO 120 or AO 121
for patent, trademark, or
copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior claim action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?YES NO

6. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? – (See Local Rule 40.1(d)).

YES NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division Central Division Western Division

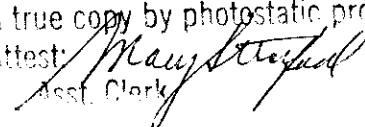
B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

7. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Mark H. Burak, Sandra E. KahnADDRESS Morse, Barnes-Brown, & Pendleton, P.C., Reservoir Place, 1601 Trapelo Road, Waltham, MA 02451TELEPHONE NO. 781-690-0760A true copy by photostatic process
Attest: 
Asst. Clerk